

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Electronic Tariff Filing System (ETFS)	)	WC Docket No. 10-141
	)	

**COMMENTS OF SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint”) hereby submits the following comments in response to the Commission’s *Notice of Proposed Rulemaking* (“*NPRM*”), FCC 10-127 released July 15, 2010, in the above-captioned proceeding. The Commission seeks comment on the extension of the Commission’s electronic filing requirements to all entities that file tariffs.

As discussed below, Sprint agrees with the Commission that requiring all carriers to file their tariffs electronically will “create a more open, transparent and efficient flow of information to the public” and “will benefit the public and carriers by creating a central system providing online access to all carrier tariffs filed with the Commission.” *NPRM* at ¶ 1. It is critical that parties whose services may be governed by the rates, terms and conditions set forth in a carrier’s tariff are able to quickly learn of any proposed revisions that will effect their ongoing business operations.

Because tariffs impose obligations on other carriers, it is critical that carriers have the ability to quickly review, and if necessary, oppose the revisions they believe raise questions of lawfulness under the Act. Indeed, the fact that competitive local exchange carriers (“CLECs”), especially those engaged in unlawful traffic pumping, do not have to file their tariffs electronically has made it difficult for Sprint and other parties to obtain

copies of their proposed revisions at all, let alone in time to file petitions seeking rejection or suspension and investigation of their revisions prior to the effective date of those tariffs.<sup>1</sup> Thus, Sprint urges the Commission to adopt the proposed rule modifications and implement the proposed changes as soon as possible.

The Commission's Electronic Tariff Filing System ("ETFS") works extremely well for the tariffs of incumbent local exchange carriers ("LECs"). It provides prompt, easy access to tariffs and related documents filed by the LECs. Because the tariffs are available shortly after filing in ETFS, interested parties are afforded the full amount of time contemplated by the rules to review the filing and to prepare petitions to reject or suspend if warranted.

In contrast, under the Commission's rules for CLECs, interested parties do not have timely access to tariff filings. Pursuant to section 61.20, "Method of filing publications," CLEC and other non-dominant carriers are required to submit their tariff filings to the Secretary of Federal Communications Commission on CD-ROMs, with copies to the Chief, Tariff and Pricing Analysis Branch and to the FCC's commercial copying service. The Tariff and Pricing Analysis Branch's copy is forwarded to the Public Reference Room. Although the Commission produces an unofficial "Tariff

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<sup>1</sup> It appears that an increasing number of the CLECs engaged in traffic pumping are filing revisions to their tariffs in an effort to get around the Commission's holdings in *Qwest Memorandum Opinion and Order*, 22, FCC Rcd 17973 (2007) ("October 2 Order"), *Order on Reconsideration*, 23 FCC Rcd 1615 (2008) ("1<sup>st</sup> Reconsideration Order"), *Second Order on Reconsideration*, 24 FCC 14801 (2009) ("2<sup>nd</sup> Reconsideration Order"), 25 FCC Rcd 3422 (2010) ("3<sup>rd</sup> Reconsideration Order"), *appeal pending, sub nom Farmers and Merchants Mutual Telephone Company v. FCC*, Case No. 10-1093.t v. *Farmers and Merchants Mutual Telephone Company* in File No. EB-07-MD-001. They are making such filings on 15 days notice in an attempt to gain "deemed lawful" status for their new language regardless of the fact that such language is squarely at odds with Commission Rules.

Transmittal Public Reference Log,” it takes time to prepare it manually, thereby reducing the number of days for interested parties to obtain copies of the filings, review them and, if necessary, prepare petitions opposing them.

Thus, under the current rules, interested parties often are unable to review or respond to tariffs within the timeframe set forth in the Commission’s rules. Clearly, the public interest would be served by having tariff revisions of all carriers available through ETFS so that such tariffs can be reviewed by interested parties and petitions filed in a timely manner. Moreover, use of ETFS helps to ensure that CLECs filing tariff revisions can easily obtain copies of petitioners’ filings relating to their tariffs in a timely manner.

In light of the flaws in the current system, Sprint agrees with the Commission that mandatory electronic tariff filing should be required for all tariffs that are filed with the FCC and that most of the rules associated with such tariff filings that the Commission has recommended should be applied. With certain rules eliminated or modified for non-dominant carriers, these requirements should not place an undue burden on these non-dominant carriers. Indeed, these carriers will save the cost of transmitting copies of the transmittal letters and CD-ROMs to the Commission. The proposed rules will also eliminate providing paper copies of the carriers’ informational tariffs, as required by section 64.709, “Informational tariffs.” Paper copies are cumbersome and costly to produce and deliver to the Commission. Further, and most importantly, the public will have easy access to the tariffs online. Thus, Sprint views the Commission’s proposed changes to be a “win” for the Commission, carriers and the public.

Concerning specific proposed rule modifications, Sprint agrees with the Commission’s proposal to require the filing of tariffs on at least one day’s notice. The

Commission suggests that if non-dominant carriers are required to file on at least one day's notice, then section 61.23 may be removed and all carriers would be subject to the notice requirements of section 61.58. Sprint agrees with this editorial change.

With respect to the formatting and composition requirements of sections 61.52 and 61.54, Sprint recommends that only the requirements of sections 61.52 (as proposed in Appendix A of the *NPRM*), 61.54(i)(1) and 61.54(j) should apply to both dominant and non-dominant carriers. Section 61.52 sets forth a formatting and composition structure that will allow interested parties to identify the carrier and services being provided and will ensure consistency across all carriers' tariffs. Specifically, section 61.52 requires the name of the issuing carrier on each page in the left-hand corner, the tariff number and page number on the right-hand corner, sequential numbering, the issued date and the effective date, the issuing officer's title, the carrier's address, and check sheets. This information sufficiently identifies the carrier, and it provides a tracking mechanism for revised pages without imposing some of the more burdensome additional requirements contained in section 61.54. Section 61.54(i)(1) requires symbols, reference marks and abbreviations that are helpful in identifying changes being proposed to the tariffs and clearly should be applicable to all tariffs. Finally, section 61.54(j), which requires clarity and specificity of the rates, terms and conditions, should apply to all tariffs.

The remaining requirements that would be imposed on non-dominant carriers under section 61.54 are unnecessary and unduly burdensome. These include, for example, information in section 61.54(b)(2) regarding the "class of service provided" and "the type of facilities used to provide the service" and section 61.54(c)(3)(ii) "indicat[ing] the transmittal number under which that page was transmitted." Additional tariffing

requirements such as these that do not significantly enhance the usefulness of the information provided in the tariffs of non-dominant carriers will impose an unnecessary burden on these carriers and should not be adopted without further justification.

Concerning the numbering of transmittals and special permission applications (*NPRM* at ¶ 12), Sprint recommends that the existing sequential numbering be followed for both. It would be extremely confusing for the Commission and customers who review tariff filings to have the numbering restart at number one for the electronic filings because there would be duplicate transmittal and application numbers. If the Commission does determine that the tariff numbering should be started at one for electronic filings, it should not require the page number to be changes. It would be extremely difficult for all parties involved to keep track of changes to the rates, terms and conditions of service if the pages are renumbered.

If the Commission determines that its proposed rule modifications are in the public interest, Sprint agrees with the recommendations to require the use of ETFS 120 days after the final order in this docket is published in the Federal Register and to require the filing of all tariffs in ETFS within 120 days. *NPRM* at ¶15. This amount of time should be sufficient for carriers to modify and file their tariffs.

Sprint strongly supports the Commission's proposal to require electronic filing. It is extremely important that customers have the ability to obtain tariff filings promptly so that they may be reviewed for their business impacts and, if necessary, petitions for rejection or suspension and investigation can be filed in a timely manner. Electronic tariff filing for all carriers is the only way to ensure this.

For the reasons expressed herein, Sprint respectfully requests that the Commission adopt the rule modifications reflecting the issues and recommendations discussed herein and institute electronic filing of tariffs for all carriers as soon as possible.

Respectfully submitted,

**SPRINT NEXTEL CORPORATION**

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